



**DEPARTMENT OF TRANSPORTATION**

**[4910-EX-P]**

**Federal Motor Carrier Safety Administration**

**[Docket No. FMCSA-2014-0189]**

**Agency Information Collection Activities; Revision of an Approved Information Collection: Hours of Service (HOS) of Drivers Regulations**

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995 (PRA), FMCSA announces its plan to submit the Information Collection Request (ICR) described below to the Office of Management and Budget (OMB) for its review and approval, and invites public comment. FMCSA requests approval to revise and extend ICR 2126-0001 entitled, “Hours of Service (HOS) of Drivers Regulations.” This notice supersedes the Agency’s notice of September 12, 2014 (79 FR 54776) that asked for comments on this ICR. This notice (1) amends the Agency’s estimate of the population of commercial motor vehicle (CMV) drivers subject to the recordkeeping requirements of the HOS rules, (2) addresses a public comment received, and (3) invites public comment.

**DATES:** Please send your comments by **[INSERT DATE 30 DAYS AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. OMB must receive your comments by this date in order to act on the ICR.

**ADDRESSES:** All comments should reference Federal Docket Management System Docket Number FMCSA-2014-0189. Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/Federal Motor Carrier

Safety Administration, and sent via electronic mail to [oir\\_submission@omb.eop.gov](mailto:oir_submission@omb.eop.gov), faxed to (202) 395-6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17<sup>th</sup> Street, NW, Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** Robert F. Schultz, Driver and Carrier Operations Division, Federal Motor Carrier Safety Administration, U.S. Department of Transportation, West Building 6th Floor, 1200 New Jersey Avenue SE., Washington, DC 20590. Telephone: 202-366-4325; e-mail [buz.schultz@dot.gov](mailto:buz.schultz@dot.gov).

**SUPPLEMENTARY INFORMATION:**

**Title:** Hours of Service (HOS) of Drivers Regulations.

**OMB Control Number:** 2126-0001.

**Type of Request:** Revision of an information collection.

**Respondents:** Motor Carriers of Property and Passengers, Drivers of CMVs.

**Estimated Number of Respondents:** 3.66 million (3.29 million CMV drivers + 0.37 million motor carriers).

**Estimated Time per Response:** Paper log: CMV driver - 11.5 minutes, Motor Carrier - 4 minutes. Electronic log: CMV driver – 1 minute, Motor Carrier – 3 minutes.

**Expiration Date:** December 31, 2014.

**Frequency of Response:** Drivers: 240 days per year; Motor Carriers: 240 days per year.

**Estimated Total Annual Burden:** 137.90 million hours.

**BACKGROUND:**

The HOS rules require most CMV drivers to maintain on the CMV a record of duty status (RODS), or daily log, current to the last change in duty status. The RODS is

critical to FMCSA's safety mission because it helps roadside enforcement officials determine if CMV drivers are complying with the HOS rules limiting driver on-duty and driving time, and requiring periodic off-duty time. The information helps FMCSA protect the public by reducing the number of tired CMV drivers on the highways.

Statutory authority for regulating the HOS of drivers operating CMVs in interstate commerce is derived from 49 U.S.C. 31136 and 31502. The penalty provisions are located at 49 U.S.C. 521, 522 and 526, as amended. The driver's RODS was first prescribed by the Interstate Commerce Commission (ICC) in Ex Parte MC-2, by order dated July 15, 1938, and later modified by order issued February 8, 1939, effective January 1, 1940. Effective July 1, 1952, the daily log was completely revised as Bureau of Motor Carrier (BMC) Form BMC 54, prescribed by the ICC. And on November 28, 1982, the Federal Highway Administration, the agency responsible for administration of the Federal Motor Carrier Safety Regulations (49 CFR 350 et seq.)(FMCSRs) at that time, published a final rule amending the safety rules to reduce the burden for drivers and motor carriers by revising the requirements for recording a driver's duty status, reducing the record retention period for both motor carriers and drivers, and relaxing the 100 air-mile radius RODS exception. Section 395.8 concerning RODS has been amended a number of times since 1982 but the basic requirements for documenting hours of service has not changed significantly since then. Motor carriers must ensure that their drivers record their duty status in a specified format and verify the accuracy of the HOS of each driver. The rule is codified at 49 CFR 395.8. The FMCSRs also state that drivers may not drive a CMV while their ability or alertness is so impaired, or likely to be so impaired, by fatigue or illness or other condition, that it is unsafe for them to drive (49

CFR 392.3). Motor carriers are also barred from permitting or requiring a CMV driver to operate their vehicle under these conditions. The FMCSA regulates the amount of time a CMV driver may drive or otherwise be on duty, in order to ensure that adequate time is available to the driver for rest. A driver must accurately record his or her duty status (driving, on duty not driving, off duty, sleeper berth) at all points during the 24-hour period designated by the motor carrier (49 CFR 395.8(a)(1)). The RODS must be recorded on a specified grid (section 395.8(g)). The term “logbook” is often used in the industry to denote the collection of the most recent RODS of the driver. A driver must have the RODS for the previous 7 consecutive days in the CMV at all times (section 395.8(k)(2)). The RODS must be submitted to the motor carrier along with any supporting documents, such as fuel receipts and toll tickets that could assist in verifying the accuracy of entries on the RODS. The HOS rules do not require motor carriers to submit this information to FMCSA. However, motor carriers must retain these records for a minimum of 6 months from the date of receipt and make them available to enforcement officials upon request (section 395.8(k)(1)). The HOS rules provide three methods of recording driver duty status:

(1) Paper RODS: This grid form requires the driver to graph time and location on a paper record over a 24-hour period (section 395.8(g)). It must be present on the CMV in the absence of a regulatory exception.

(2) Time Record: “Short haul” CMV drivers do not have to maintain a RODS onboard the vehicle if their motor carrier maintains a time record showing for each duty day when the driver reported for duty, when he or she was released from duty, and the total hours on duty (section 395.1(e)). Such drivers also do not have to maintain

supporting documents, such as fuel and toll receipts, on board the vehicle.

(3) Automatic On-Board Recording Device (AOBRD): An electronic record is permitted if it is created and maintained by an AOBRD as defined by section 395.2. The record must include all the information specified in section 395.15.

As a condition of receiving certain Federal grants, States agree to adopt and enforce the FMCSRs, including the HOS rules, as State law. As a result, State enforcement inspectors use the RODS and supporting documents to determine whether CMV drivers are complying with the HOS rules. In addition, FMCSA uses the RODS during on-site compliance reviews (CRs) and targeted reviews of motor carriers, and Federal and State courts rely upon the RODS as evidence of driver and motor carrier violations of the HOS regulations. This information collection supports the DOT's Strategic Goal of Safety because the information helps the Agency ensure the safe operation of CMVs on our Nation's highways.

On March 28, 2014, the Agency published a supplemental notice of proposed rulemaking (SNPRM) proposing rules that would require motor carriers currently using RODS to use electronic logging devices (ELDs) to record their HOS information, and sought public comment (79 FR 17656). The SNPRM also included a proposal concerning HOS supporting documents used to verify the accuracy of the RODS. The ELD rulemaking does not affect this ICR because ELDs will not be mandatory until sometime after the 3-year timeframe of this PRA estimate.

The currently-approved IC burden estimate of the HOS rules, approved by OMB on December 11, 2011, is 184.38 million hours. The Agency's estimate accounted for the HOS IC burden of both interstate and intrastate CMV drivers. Approval of the IC

expires on December 31, 2014.

### **Renewal of this IC**

The Agency is asking OMB to approve its revised estimate of the IC burden of the HOS rules. On June 24, 2014, FMCSA published a **Federal Register** notice announcing that the Agency was submitting to OMB a revised estimate of the IC burden of the HOS rules of 106.89 million hours, and asked for public comment on it (79 FR 35843). The revised estimate excluded the HOS IC burden of intrastate CMV drivers because the Agency believed that the HOS burden imposed on these drivers was not subject to reporting under the PRA. The Agency estimated that 2.84 million drivers were subject to the IC requirements of the HOS rules.

The agency received one comment in response to the notice. The National Ready Mixed Concrete Association (NRMCA) asked the Agency to amend the “short-haul” exception of section 395.1(e)(1) so that more CMV drivers could operate under its terms. As explained above, short-haul drivers are not required to maintain a RODS or supporting documents on board the CMV. NRCMA pointed out that expanding the number of drivers qualifying as “short-haul” drivers would reduce the overall paperwork burden of this ICR. The Agency will take the NRMCA suggestion under advisement. By law, formal rulemaking is required to amend Federal regulations, including publication of the proposed amendment in the **Federal Register** and an opportunity for public comment.

On September 12, 2014, FMCSA published the second notice of this ICR as required by law, and asked the public to submit comments to OMB on its IC burden estimate of 106.89 million hours (79 FR 54776). Subsequently, the OMB directed

FMCSA to account for the IC burden imposed on intrastate drivers and their motor carriers by State HOS laws. It concluded that this burden was subject to reporting under the PRA because FMCSA requires its State grantees to adopt compatible HOS rules as a condition of receiving funding under the Agency's Motor Carrier Safety Assistance Program. Today, FMCSA publishes this 30-day notice to revise its burden estimate for this IC and provide for public comment on it. The Agency today includes approximately .82 million intrastate drivers and revises its estimate of the total population of interstate and intrastate CMV drivers subject to the recordkeeping requirements of the HOS rules -- 3.66 million. Accordingly, the Agency revises its estimate of the IC burden of the HOS rules -- 137.89 million hours. These estimates supersede those set forth in the September 12 notice.

The Agency's request for OMB approval of its amended estimate of the IC burden of the HOS rules is not the result of amendment of those rules. Aside from the 2014 adjustments related to the HOS burden of intrastate CMV drivers, the Agency's estimate is the result of two program adjustments. The first program adjustment is revised estimates of the number of drivers operating CMVs in interstate and intrastate commerce and of the number of CMV drivers subject to the HOS rules. The approved 2011 ICR estimated that 7.0 million CMV drivers operated in interstate and intrastate commerce and that 4.6 million of those drivers were subject to the recordkeeping requirements of the HOS rules. Today the Agency estimates that 5.7 million CMV drivers operate in interstate and intrastate commerce and that 3.66 million of these drivers are subject to the recordkeeping requirements of the HOS rules (2.04 million CMV drivers qualify as "short haul" drivers and do not incur any HOS recordkeeping burden).

The second program adjustment is an Agency estimate of the use of AOBRDs in the industry to record, transfer and store HOS information electronically. AOBRDs automate several IC tasks required of CMV drivers and motor carriers by the HOS rules. The currently-approved 2011 burden estimate did not account for AOBRD usage. FMCSA data today indicates that an average of 0.37 million CMV drivers will be employing electronic technology for HOS purposes over the three years that are the subject of this IC estimate. The Agency estimate submitted to OMB for approval is 137.89 million burden hours. It combines an estimate of the IC burden imposed on those using paper RODS or logs (3.29 million CMV drivers) and a separate estimate of the IC burden imposed on those using AOBRDs (0.37 million CMV drivers).

**PUBLIC COMMENTS INVITED:** You are asked to comment on any aspect of this information collection, including: (1) whether the proposed collection is necessary for the FMCSA to perform its functions; (2) the accuracy of the estimated burden; (3) ways for the FMCSA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized without reducing the quality of the collected information.

Issued under the authority delegated in 49 CFR 1.87 on December 10, 2014.

G. Kelly Regal,  
Associate Administrator,  
Office of Research and Information Technology,  
and Chief Information Officer.

[FR Doc. 2014-29861 Filed 12/19/2014 at 8:45 am; Publication Date:  
12/22/2014]